

PD

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Jarrell Clark,	:
c/o Piontek Law Office	:
951 Allentown Road	:
Lansdale, PA 19446	:
Plaintiff	:
v.	:
City of Philadelphia	:
c/o City of Philadelphia Law Department	:
1515 Arch Street	:
Philadelphia, PA 19102	:
and	:
Officer Humm (First Name Unknown)	:
c/o City of Philadelphia Law Department	:
1515 Arch Street	:
Philadelphia, PA 19102	:
and	:
JOHN DOE(S) 1-10	:
c/o City of Philadelphia Law Department	:
1515 Arch Street	:
Philadelphia, PA 19102	:
Defendant(s)	:

12 6153

COMPLAINT

AND NOW, comes the Plaintiff, Jarell Clark, by and through his attorney, Vicki Piontek, Esquire, and respectfully states the following:

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. § 1983 and 42 U. S. C. § 1985(c). Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343 (1), (3), (4) and the aforementioned statutory provision.
2. Plaintiff further invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1337(a) to hear and adjudicate the pendant state law claims.

PARTIES

3. The previous paragraphs of this Complaint are incorporated by reference and made a part of this Complaint.
4. Plaintiff, Jarrell Clark, (hereinafter referred to as "Clark"), is an adult individual and a resident of the Commonwealth of Pennsylvania and the City of Philadelphia at all times relevant hereto.
5. Defendants are the following persons and entities.
 - a. Officer Humm, whose first name is unknown, is an individual and an employee of the City of Philadelphia and who is currently an officer of the aforesaid Philadelphia Police Department. At all times relevant hereto this Defendant's actions were under color of state law.
 - b. CITY OF PHILADELPHIA, (hereinafter referred to as "City") is a municipality existing under the laws of the Commonwealth of Pennsylvania and which owns, operates, manages, directs and controls the Philadelphia Police Department (hereinafter referred to as "Police") as well as the City of Philadelphia Law Department and all employees thereof.

- c. John Does 1-10, are individuals and municipal entities known and unknown employed as for the City of Philadelphia Police Department whose identities are at this time unknown and who at all times relevant hereto acted under color of state law. It is believed and averred that such Does played a substantial role in the acts, omissions, transactions or occurrences averred in this Complaint.
- 6. Defendants individually and in their official capacities acted in concert and conspiracy to deprive Plaintiff, Clark, of his constitutional and statutory rights, as well as having committed common law torts against Plaintiff.
- 7. The unlawful actions of each Defendant are set forth below.

OPERATIVE FACTS

8. The previous paragraphs of this Complaint are incorporated by reference and made a part of this Complaint.
9. On or about January 16, 2012, at approximately 4:06 A.M., Plaintiff Jarrell Clark was driving an automobile at or near 58th and Baltimore Streets in the City of Philadelphia, Pennsylvania.
10. At the time that Plaintiff was driving said automobile at said location, Defendant [name of officer] initiated a traffic stop, and pulled Plaintiff over.
11. Plaintiff produced a valid Pennsylvania Drivers license with which was designated to be used for occupational purposes only.
12. At said time and place where Defendant, Officer Humm, pulled plaintiff over, Plaintiff was using said drivers license exclusively for occupational purposes. To wit, Plaintiff was engaged in his trade / occupation as an independent contractor on his way to work.
13. Defendant, Officer Humm querried Plaintiff as to what Plaintiff was doing at that date time and Place. Plaintiff responded to Defendant Officer Humm that he was an independent contract on his way to work.

14. Despite Plaintiff's reasonable explanation of his activities, Officer Humm indicated to Plaintiff that he did not believe Plaintiff was using Plaintiff's occupational limited license for occupational purposes, but did not provide any factual basis for such disbelief.
15. Plaintiff made one last attempt to reason with Defendant, Officer Humm, and offered the name of Plaintiff's contractor / supervisor, so that Defendant, Officer Humm, could verify that Plaintiff was engaged in occupational activities at the time of the traffic stop.
16. Without listening to Plaintiff, without hesitation, and without further investigation, Defendant [name of officer] issued a traffic citation against Plaintiff for alleged violation of 75 PS 1543 b, Driving with a suspended license, DUI related, an offense with a maximum possible jail time of 90 days of imprisonment, and a fine of \$595.00.
17. At all times mentioned herein, there was no evidentiary basis whatsoever for Defendant Officer Humm' s accusations against Plaintiff that Plaintiff was driving outside of the scope of Plaintiff's occupational limited license, or that Plaintiff was not engaged in his occupation or trade at the time of the traffic stop.
18. At all times mentioned herein, Officer Humm made no reasonable attempt to investigate the facts, or to verify Plaintiff's version of the facts.
19. At all times mentioned herein, Plaintiff was wholly innocent of the charges of 75 PS 1543 b, because he was engaged in his trade / occupation, as an independent contractor as [say what Plaintiff was doing].

20. At all times mentioned herein, the charges brought against Plaintiff by Defendant Officer Humm were wholly false and without legal or factual basis.

21. As a result of the aforementioned false and baseless criminal traffic charges, Plaintiff was subjected to a criminal prosecution and therefore was required to attend a criminal traffic hearing for the alleged violation of 75 PS 1543b.

22. On or about March 23, 2012, a hearing was held at the traffic Court in Philadelphia, wherein Plaintiff was represented by criminal defense attorney Crystal Powell, Esquire, and was exonerated of the false and baseless criminal charges of 75 PS 1543b.

23. As a result of the aforementioned false and baseless criminal traffic accusations being brought against Plaintiff by Defendant Officer Humm, Plaintiff suffered hardships including but not limited to the following.

- a. Travel expenses related to Plaintiff's Court appearance, proving his innocence and legal consultation.
- b. \$350 attorney fees paid up front
- c. \$350 attorney fees still owed
- d. Loss of sleep, anxiety, worry and emotional distress.

**COUNT ONE:
FEDERAL CIVIL RIGHTS VIOLATION**

24. The previous paragraphs are incorporated herein by reference, and made a part of this Complaint.
25. All of the aforementioned actions committed by Defendant, Officer Humm were committed under color of state law.
26. As a direct and proximate result of all Defendants' aforementioned conduct, committed under the color of state law, Plaintiff was deprived of the right to be free from unreasonable and malicious prosecution.
27. As a direct and proximate result of all Defendants' aforementioned conduct, committed under the color of state law, Plaintiff was also deprived of the right to be secure in one's person and property.
28. As a direct and proximate result of all Defendants' aforementioned conduct, committed under the color of state law, Plaintiff was also deprived of the right to due process of the law.

29. As a direct and proximate result of all Defendants' aforementioned conduct, committed under the color of state law, Plaintiff Henderson suffered harm in violation of his rights under the laws and Constitution of the United States, in particular the First, Fourth and Fourteenth Amendments and 42 U.S.C. §1983.

30. As a direct and proximate result of the acts of all Defendants, Plaintiff sustained injuries, emotional harm, loss of liberty and financial losses.

**COUNT TWO:
MALICIOUS PROSECUTION**

31. The previous paragraphs are incorporated herein by reference, and made a part of this Complaint.
32. Defendant, Offers Humm wrongfully initiated criminal charges against Plaintiff for 75 PS 1543b.
33. The proceeding eventually ended in plaintiff's favor, when Plaintiff was acquitted of all charges at trial.
34. Defendant, Officer Humm's motive in the above described facts was improper in that it was personal, self motivated and vindictive as evidenced by Defendant Humm's absolute refusal to further investigate the facts that would have demonstrated that Plaintiff was within the guidelines of his occupational limited license when Plaintiff was cited for 75 PS 1543b.
35. As a result of Defendant(s) actions, plaintiff suffered a serious deprivation of liberty, financial loss and severe emotional distress.

**COUNT THREE:
MALICIOUS ABUSE OF PROCESS**

36. The previous paragraphs are incorporated herein by reference, and made a part of this Complaint.
37. Defendant Officer Humm wrongfully initiated proceedings against plaintiff by way of enforcing an improper citation for 75 PS 1543b against Plaintiff.
38. Defendant Officer Humm further denied Plaintiff proper process by refusing investigate the merits of Plaintiff's explanation that he was engaged in occupational work while Plaintiff was pulled over by Officer Humm and cited for 75 PS 1543b.
39. Defendant Officer Humm's motive in the above described abuse of process was outrageous, illegitimate, self-motivated and vindictive, as evidenced by Defendant Officer Humm's absolute refusal to investigate facts that would have proven Plaintiff was an innocent man.

DAMAGES

40. The previous paragraphs of this Complaint are incorporated by reference and made a part of this Complaint.

41. As a result of Defendant Officer Humm's unlawful conduct complaint of in this Complaint, Plaintiff suffered actual damages including but not limited to the following.

a. Travel expenses related to Plaintiff's Court appearance, proving his innocence and legal consultation, no less than \$1.00	\$1.00
b. Attorney fees paid up front for the defense of the underling false criminal traffic allegations that Plaintiff was exonerated of	\$350
c. Attorney fees still owed for the defense of the underling false criminal traffic allegations that Plaintiff was exonerated of	\$350

Total \$701.00

42. As a direct and proximate result of Defendant's Officer Humm's aforementioned misconduct, Plaintiff suffered emotional distress, loss of sleep, anxiety and worry.

43. For purposes a default judgment, the value of such emotional distress, loss of sleep, anxiety and worry is no less than \$10,0000.

44. Plaintiff believes and avers that Defendant, Officer Humm's conduct was willful, wanton, intentional, and reckless at best, thereby warranting punitive damages.

45. For purposes of a default judgment, Plaintiff believes and avers that the value of such punitive Damages is no less than \$25,000.00.

ATTORNEY FEES FOR PROSECUTING THE INSTANT ACTION

46. The previous paragraphs of this Complaint are incorporated by reference and made a part of this Complaint.

47. Pursuant to the provisions of 42 USC 1983 et. seq, Plaintiff believes and avers that he is entitled to reasonable attorney fees in prosecuting this instant action.

48. Plaintiff believes and avers that the fair market value of such attorney fees should be no less than \$350 per hour.

49. Such attorney fees are estimated below.

a. Consultation with client and review of file	1 hour
b. Drafting, editing, review, filing and service of Complaint, and related documents	3 hours
c. Follow up with Defense	2 hours

$$5.5 \text{ hours} \times \$350 \text{ per hour} = \$2,100$$

50. Plaintiff's attorney fees continue to accrue as the case move forward.

51. The above stated attorney fees are for prosecuting this matter and reasonable follow up.

WHEREFORE, Plaintiff requests this Honorable Court to grant him an award of \$37,801 enumerated below.

a. Travel expenses	\$1.00
b. Emotional distress, loss of sleep, worry, etc.	\$10,000
c. Punitive damages	\$25,000
d. Reasonable attorney fees for defending the false criminal charges referred to in this Complaint	\$700.00
e. Reasonable attorneys' fees for prosecuting this action	\$2,100
	<hr/> \$37,801

Plaintiff also seeks reasonable costs for prosecuting this instant action, and such other declaratory and further relief as appears reasonable and just.

Vicki Piontek
Vicki Piontek, Esquire
Attorney for Plaintiff
951 Allentown Road
Lansdale, PA 19446
877-737-8617
Fax: 866-408-6735
palaw@justice.com

10/25/2012
Date

COMMONWEALTH OF PENNSYLVANIA

CITATION NO.

PHILADELPHIA TRAFFIC COURT
800 SPRING GARDEN STREET
P.O. BOX 56301
PHILADELPHIA, PA 19130-8301



TRAFFIC CITATION

X0527535-1

2. C.D.L.		3. STATE		4. GENDER		5. SEX	
<input type="checkbox"/> PA		<input type="checkbox"/> M		<input type="checkbox"/> F			
6. DEFENDANT NAME FIRST		MIDDLE		LAST			
Jarrell		E.		Clark			
7. DEFENDANT STREET ADDRESS 1501 Benner St.							
8. CITY Phila		9. STATE PA		10. ZIP CODE 19149			
11. OWNER/LESSEE OR CARRIER NAME is different from defendant				11A. IDENTIFICATION SOURCE <input checked="" type="checkbox"/> Drivers License <input type="checkbox"/> Defendant <input type="checkbox"/> Non Driver License <input type="checkbox"/> BMV <input type="checkbox"/> Other			
12. OWNER/LESSEE OR CARRIER ADDRESS is different from defendant							
13. VEHICLE REG. NO HWT 2539		14. REG. YR. 9-12		15. STATE PA		16. MAKE Chevy	
18. VEHICLE REG. NO.		20. REG. YR.		21. STATE PA		22. MAKE EPE	
SEE BACK OF DEFENDANT'S COPY FOR BREAKDOWN OF TOTAL DUE.							
23. VIOLATION TYPE <input checked="" type="checkbox"/> Vehicle Code <input type="checkbox"/> Ordinance		<input type="checkbox"/> Filed on Information Received <input type="checkbox"/> Lab Services Requested		<input type="checkbox"/> Active Work Zone <input type="checkbox"/> Safety Corridor		TOTAL DUE* (if paid within 10 days of issuance) 595.50	
26. CHARGE SECTION & SUBSECTION 1543 - B - 1							
27. NATURE OF OFFENSE License Suspended - DUI Related							
28. SPEED TIMED		29. SPEED ALLOWED		30. WEIGHT PERMITTED		31. ACTUAL VEHICLE WEIGHT lbs. lbs.	
32. FOLLOWED miles		33. TIMED miles seconds		34. SPEED EQUIP. SERIAL NO.		35. SPEED DETECT. EQUIP. TYPE 36. STAT EQUIP. TST	
38. DATE EQUIP. TST.		39. ACC. ARREST/IMPT. NO. <input type="checkbox"/> YES		40. LOCATION OF OCCURRENCE 58th & Ba/Hmore		41. OFFENDER'S GENDER Male	
42. SELECTIVE ENF.		43. OHM OF. HAZEL		44. WEATHER CONDITIONS Clear		45. OFFENDER'S DATE, TIME, DAY 11-16-12 7:00 AM	
46. MONTH 3		49. DAY 22		50. YEAR 2011		51. TIME 11:00 AM	
YOU MUST APPEAR FOR YOUR SUMMARY TRIAL WHICH IS SCHEDULED FOR:							
48. MONTH 3		49. DAY 22		50. YEAR 2011		51. TIME 11:00 AM	
LOCATION: 600 Spring Garden Street Philadelphia, PA 19123							
You must plead Guilty or Not Guilty within 10 days of receipt of the citation (see the Reverse side of the Citation). If within 10 days of receipt of the citation, you enter a guilty plea and pay the fine and costs indicated on the citation, the summary trial will be cancelled. If you are charged with a violation of 75 Pa.C.S. § 1543 or any other violation that provides for the imposition of a prison sentence, you must appear on the above date with counsel. If you fail to appear for the trial, you are consenting to the trial in your absence. If you are found guilty, the collateral deposited will be forfeited and applied toward your fines and costs. Within 30 days of the entry of a guilty plea or adjudication of guilt you have the right to appeal for a trial <i>de novo</i> in the Court of Common Pleas.							
I have served a copy of this Citation on the Defendant.							
I verify that the facts set forth in this citation are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. §4904) relating to the unsworn falsification to authorities.							
OFFICER'S SIGNATURE H/O Human BADGE NO. 4939							
52. DEFENDANT'S SIGNATURE ACKNOWLEDGES RECEIPT OF CITATION <input checked="" type="checkbox"/>							
53. DATE ISSUED 11-16-12 <input type="checkbox"/> ISSUED <input type="checkbox"/> FILED							
54. STATION ADDRESS		55. DIST. ISB		56. LAW ENFORCEMENT AGENCY <input type="checkbox"/> Acc. Inv. Div. <input type="checkbox"/> DRPA <input type="checkbox"/> City Police <input type="checkbox"/> PennDOT <input type="checkbox"/> Pub. Util. Com. <input type="checkbox"/> State Police <input type="checkbox"/> Other			
57A. JUVENILE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		57B. PARENTS NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO		58. COMM. VEH. <input type="checkbox"/> HAZ. MAT. <input type="checkbox"/>		59. SCHOOL VEH. <input type="checkbox"/> 60. PASS VEH. <input type="checkbox"/> <input checked="" type="checkbox"/> MARKED <input type="checkbox"/> UNMARKED	
61. REMARKS REFER TO FVR# X05275340							
62. NOTICE If you plead guilty or are found guilty, points may be assessed against your driver's record. An accumulation of points may result in the suspension of your driving privilege. Also, your driving privilege WILL BE SUSPENDED if you plead guilty or are found guilty of certain offenses under the Vehicle Code, including but not limited to: 75 Pa.C.S. §§ 1371, 3341, 3345, 3367, 3718, 3734, 3735, subsequent convictions of 75 Pa.C.S. § 1501, a violation of 75 Pa.C.S. § 3361 when occurring in an active work zone and an accident report is submitted by the police, and a violation of 75 Pa.C.S. § 3362 when occurring in an active work zone.							
*Final Amount to be determined by Traffic Court							
*AOPCA-2005							
DEFENDANT'S COPY							
* Please read your Rights and Obligations on reverse side.							
* X 0 5 2 7 5 3 5 1 *							

EXHIBIT A

Quick Process		Customer		Financial Summary		Customer Status	
✓ All:	11 (\$0.00)	Clark, Jarrell Z		Ticket Amount:	\$0.00	Fulfilled IPP	
Open Tickets:	(\$0.00)	1501 Benner St		Fee Amount:	\$0.00		
Delq Tickets:	(\$0.00)	Phila, PA 19149-0000					
Marked/Held Tickets:	(\$0.00)						
IPP Tickets:	1 (\$0.00)	Address Source: Registry		Total Due:	\$0.00		
		Ticket Type: Move		Unapplied Amt:	\$0.00		
		License: PA26996999					
		Date of Birth: 11/16/1983					
Other Process		SEARCHED		INDEXED		FILED	

<input checked="" type="checkbox"/> <input type="checkbox"/> clear	Ticket #	Violation/ Issue Date	Last Closing Disp/ Disposition	Suspend Class/ Untimely Review	Suspend Code/ Badge	Suspend Start/ Suspend Until
	X05275340	4303A 01/16/2012	03/23/2012 GUILTY IPP	No	91 :IPP 004939	03/23/2012 04/23/2012
	X05275351	154381 01/16/2012	03/23/2012 DISMISSAL	No	25 :DA COURT 004939	03/02/2012 03/23/2012
	S00921955	6308A 07/26/2009	01/08/2010 APPEAL SUSTAINED	No	99 :COURT APPR 002305	12/15/2009 01/08/2011
	S00921966	4581A 07/26/2009	01/08/2010 APPEAL DENIED	No	99 :COURT APPR 006845	12/15/2009 01/08/2011
	S01887804	3111A 06/08/2009	08/07/2009 GUILTY IPP	No	91 :IPP 005369	08/07/2009 11/09/2009
	S01557423	4524E1 04/01/2009	06/04/2009 NOT GUILTY	No	98 :COURT APPR 010757	04/20/2009 04/20/2009
	E07277362	3111 10/05/2008	01/21/2009 APPEAL GLTY W/AMEND	No	17 :APL 30 DAY 002050	01/27/2009 02/26/2009
	E05714170	4524A 06/29/2008	08/29/2008 NOT GUILTY	No	35 :COLL OK 001817	07/24/2008 09/03/2008
	G00141400	3115 03/22/2006	05/24/2006 GUILTY	No	98 :COURT APPR 000322	04/11/2006 04/11/2006
	Q00733224	4524 03/08/2005	07/27/2005 GUILTY IPP	No	91 :IPP 006112	07/27/2005 09/07/2005
	Q00733213	3334B 03/08/2005	07/27/2005 NOT GUILTY	No	99 :COURT APPR 006112	03/22/2005 08/01/2005

EXHIBIT B